



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(C-122-860)

100- To 150-Seat Large Civil Aircraft from Canada: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective May 17, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood at (202) 482-3874, AD/CVD Operations, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

The Petition

On April 27, 2017, the Department of Commerce (the Department) received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of 100- to 150-seat large civil aircraft (aircraft) from Canada, filed in proper form, on behalf of The Boeing Company (the petitioner).<sup>1</sup> The petitioner is a domestic producer of aircraft.<sup>2</sup>

On May 1 and 2, 2017, the Department requested additional information and clarification of certain areas of the Petition.<sup>3</sup> The petitioner filed responses to these requests on May 4, 2017.<sup>4</sup>

On May 9, 2017, the petitioner filed an additional amendment to the Petition.<sup>5</sup>

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<sup>1</sup> See Letter to the Secretary of Commerce from the petitioner “In the Matter of 100- to 150-Seat Large Civil Aircraft from Canada – Petitions for the Imposition of Antidumping and Countervailing Duties” (April 27, 2017) (the Petition).

<sup>2</sup> See Part Two of the Petition, at 26.

<sup>3</sup> See letter to the petitioner from the Department concerning supplemental questions on Part Three of the Petition (May 1, 2017); *see also* letter to the petitioner from the Department concerning supplemental questions on general issues (May 2, 2017).

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the federal government of Canada (GOC), the provincial government of Quebec (GOQ), and the Government of the United Kingdom (U.K.) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, with respect to imports of aircraft from Canada, and that imports of aircraft are threatening material injury to an industry in the United States. Also, consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioner is requesting.<sup>6</sup>

#### Period of Investigation

Because the Petition was filed on April 27, 2017, pursuant to 19 CFR 351.204(b)(2), the period of investigation is January 1, 2016, through December 31, 2016.<sup>7</sup>

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<sup>4</sup> See Letter to the Secretary of Commerce from the petitioner “100- To 150-Seat Large Civil Aircraft from Canada – Petitioner’s Response to Supplemental Questions dated May 1, 2017” (May 4, 2017) (Petition Supplement); *see also* letter to the Secretary of Commerce from the petitioner “100- To 150-Seat Large Civil Aircraft from Canada – Petitioner’s Response to Supplemental Questions dated May 2, 2017” (May 4, 2017).

<sup>5</sup> See Letter to the Secretary of Commerce from the petitioner “100- To 150-Seat Large Civil Aircraft from Canada – Proposed Scope Clarification” (May 9, 2017) (Scope Clarification).

<sup>6</sup> See “Determination of Industry Support for the Petition” section, below.

<sup>7</sup> See 19 CFR 351.204(b)(2).

### Scope of the Investigation

The product covered by this investigation is aircraft from Canada. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

### Comments on Scope of the Investigation

We received additional information from the petitioner pertaining to the proposed scope, to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>8</sup>

As discussed in the preamble to the Department’s regulations,<sup>9</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination in this investigation, and in the companion AD investigation currently being initiated. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. The Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, June 6, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (and also should be limited to public information), must be filed by 5:00 p.m. ET on Friday, June 16, 2017, which is 10 calendar days from the deadline for initial comments.<sup>11</sup> All such comments must be filed on the record of the concurrent AD investigation.

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<sup>8</sup> *See* Scope Clarification.

<sup>9</sup> *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>10</sup> *See* 19 CFR 351.102(b)(21).

<sup>11</sup> *See* 19 CFR 351.303(b).

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments and information must be filed on the record of the concurrent AD investigation.

### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>12</sup> An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

### Consultations

Pursuant to section 702(b)(4)(A) of the Act, the Department notified representatives of the GOC of the receipt of the Petition, and provided the opportunity for consultations with respect to the CVD Petition.<sup>13</sup> Because the Department may require a questionnaire response

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<sup>12</sup> See 19 CFR 351.303 (for general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx>, and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>13</sup> See Letter to the embassy of Canada from the Department "Invitation for Consultations to Discuss the Countervailing Duty Petition on 100- to 150- Seat Large Civil Aircraft from Canada" (April 27, 2017); *see also* letter to the embassy of the United Kingdom from the Department "Invitation for Consultations to Discuss the Countervailing Duty Petition on 100- to 150- Seat Large Civil Aircraft from Canada" (May 4, 2017).

from the Government of the U.K. in this investigation, the Department also provided representatives of the U.K. an opportunity for consultations. In response to the Department's letters, the GOC requested that consultations be held, and the U.K. also requested consultations.<sup>14</sup> Such consultations were held on May 10 and 16, 2017, respectively.<sup>15</sup> The invitation letters and memoranda regarding the consultations are on file electronically *via* ACCESS.

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support,

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<sup>14</sup> See Letter to the Department from the Embassy of the GOC "100-to 150-Seat Large Civil Aircraft from Canada. Invitation for Consultations Regarding Investigation C-122-860" (May 8, 2017) and Letter to the Department from the Embassy of the U.K. "100-to 150-Seat Large Civil Aircraft from Canada. Invitation for Consultations Regarding Investigation C-122-860" (May 10, 2017).

<sup>15</sup> See Department Memoranda "Countervailing Duty Petition on Aircraft from Canada: GOC Consultations" (May 10, 2017) and "Countervailing Duty Petition on Aircraft from Canada: U.K. Consultations" (May 16, 2017).

the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>16</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>17</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that aircraft, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>18</sup>

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<sup>16</sup> See section 771(10) of the Act.

<sup>17</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>18</sup> For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: 100- to 150-Seat Large Civil Aircraft from Canada (Canada CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering 100- to 150-Seat Large Civil Aircraft from Canada, (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, the petitioner provided its own information regarding production of the domestic like product in 2016.<sup>19</sup> The petitioner states that there are no other producers of aircraft in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.<sup>20</sup>

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.<sup>21</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>22</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>23</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>24</sup> Accordingly, the Department determines

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<sup>19</sup> See General Issues Supplement, at 3-4 and Exhibit Supp.-8.

<sup>20</sup> See Petition, at 26, 44-45 and Exhibits 44 and 67.

<sup>21</sup> See Canada CVD Initiation Checklist, at Attachment II.

<sup>22</sup> See section 702(c)(4)(D) of the Act; *see also* Canada CVD Initiation Checklist, at Attachment II.

<sup>23</sup> See Canada CVD Initiation Checklist, at Attachment II.

<sup>24</sup> *Id.*

that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting that the Department initiate.<sup>25</sup>

### Injury Test

Because Canada is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Threat of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is threatened with material injury, by reason of imports (or sales for importation) of the subject merchandise that are benefitting from countervailable subsidies. In addition, the petitioner alleges and provides supporting evidence that there is the potential that subject imports will imminently exceed the negligibility threshold. The petitioner’s arguments regarding the potential for imports from Canada to imminently exceed the negligibility threshold are consistent with the statutory criteria for “negligibility in threat analysis” under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.<sup>26</sup>

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<sup>25</sup> *Id.*

<sup>26</sup> *See* Petition, at 28-29 and Exhibit 44.



The petitioner contends that the threat of material injury is illustrated by the domestic industry's vulnerability, the nature of the alleged countervailable subsidies, existing unused production capacity available to imminently and substantially increase exports of subject merchandise to the United States, significant increase in the market penetration of subject imports and likelihood of further increase in the volume and market penetration of subject imports, adverse price effects on domestic prices, and negative effects on product development and production.<sup>27</sup> We have assessed the allegations and supporting evidence regarding threat of material injury and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>28</sup>

#### Initiation of CVD Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The petitioner alleges that producers/exporters of aircraft from Canada benefited from countervailable subsidies bestowed by the GOC, GOQ, and the U.K. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, and/or exporters of aircraft from Canada receive countervailable subsidies from the GOC, GOQ, and the U.K.

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<sup>27</sup> *Id.*, at 1-24, 28-29, 46-78 and Exhibits 1-12, 17, 21-22, 24, 36-39, 40-41, 43-54, 66, 97-106, 108-109; *see also* General Issues Supplement, at 2-3 and Exhibits Supp.-6 and Supp.-7.

<sup>28</sup> *See* Canada CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Threat of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering 100- to 150-Seat Large Civil Aircraft from Canada.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.<sup>29</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>30</sup> The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.<sup>31</sup>

### Subsidy Allegations

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on each of the 14 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination in this investigation no later than 65 days after the date of initiation.

### Average Useful Life (AUL)

In the Petition, the petitioner used a 20-year AUL period based on proprietary information contained in an affidavit.<sup>32</sup> However, 19 CFR 351.524(d)(2)(i) presumes “the allocation period for non-recurring subsidies to be the AUL of renewable physical assets for the industry concerned as listed in the Internal Revenue Service’s (IRS) 1977 Class Life Asset

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<sup>29</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>30</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>31</sup> *Id.*, at 46794-95.

<sup>32</sup> See Petition at Exhibits 14 and 152, and Petition Supplement at 1.

Depreciation Range System,” as updated by the Department of the Treasury. The IRS table lists a 10 year AUL for the manufacture of aerospace products.<sup>33</sup> Pursuant to 19 CFR 351.524(d)(2)(i), the Department may use a different AUL period if a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under investigation. Additionally, pursuant to 19 CFR 351.524(d)(2)(iv), “{u}nder certain extraordinary circumstances,” the Department “may consider whether an allocation period other than the AUL is appropriate.” Therefore, the Department requests that interested parties submit comments regarding the AUL period applicable in this investigation, including supporting factual information, by 5:00 p.m. ET on Tuesday, June 6, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, June 16, 2017, which is 10 calendar days from the deadline for initial comments.<sup>34</sup>

#### Respondent Selection

Although the Department normally relies on the number of producers/exporters identified in the petition and/or on import data from Customs and Border Protection to determine whether to select a limited number of producers/exporters for individual examination in CVD investigations, the petitioner identified only one company as a producer/exporter of aircraft from Canada: Bombardier, Inc. We currently know of no additional producers/exporters of the merchandise under consideration from Canada, and the petitioner provided information from independent sources as support.<sup>35</sup> Accordingly, the Department intends to examine the sole producer/exporter identified in the petition. Parties wishing to comment on respondent selection

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<sup>33</sup> See Memorandum to the File, “Class Life for Manufacture of Aerospace Products,” dated concurrently with this notice, at Asset class 37.2.

<sup>34</sup> See 19 CFR 351.303(b).

<sup>35</sup> See Petition at 27, 29, and Exhibit 61; and Scope Clarification at 3-5 and Exhibit Supp.-12.

must do so within five days from the publication of this notice in the *Federal Register*. Any such comments must be submitted no later than 5:00 p.m. ET on the due date, and must be filed electronically *via* ACCESS.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC and U.K. *via* ACCESS. To the extent practicable, we will provide a copy of the public version of the Petition to the one known exporter named in the Petition, consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of aircraft from Canada are materially injuring, or threatening material injury to, a U.S. industry.<sup>36</sup> A negative ITC determination will result in the investigation being terminated;<sup>37</sup> otherwise, this investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). The

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<sup>36</sup> See section 703(a)(2) of the Act.

<sup>37</sup> See section 703(a)(1) of the Act.

regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in this investigation.

#### Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>38</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>39</sup> The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

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<sup>38</sup> See section 782(b) of the Act.

<sup>39</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

Dated: May 17, 2017

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is aircraft, regardless of seating configuration, that have a standard 100- to 150-seat two-class seating capacity and a minimum 2,900 nautical mile range, as these terms are defined below.

“Standard 100- to 150-seat two-class seating capacity” refers to the capacity to accommodate 100 to 150 passengers, when eight passenger seats are configured for a 36-inch pitch, and the remaining passenger seats are configured for a 32-inch pitch. “Pitch” is the distance between a point on one seat and the same point on the seat in front of it.

“Standard 100- to 150-seat two-class seating capacity” does not delineate the number of seats actually in a subject aircraft or the actual seating configuration of a subject aircraft. Thus, the number of seats actually in a subject aircraft may be below 100 or exceed 150.

A “minimum 2,900 nautical mile range” means:

- (i) able to transport between 100 and 150 passengers and their luggage on routes equal to or longer than 2,900 nautical miles; or
- (ii) covered by a U.S. Federal Aviation Administration (FAA) type certificate or supplemental type certificate that also covers other aircraft with a minimum 2,900 nautical mile range.

The scope includes all aircraft covered by the description above, regardless of whether they enter the United States fully or partially assembled, and regardless of whether, at the time of entry into the United States, they are approved for use by the FAA.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8802.40.0040. The merchandise may alternatively be classifiable under HTSUS subheading 8802.40.0090. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.